

Health Care Administrative Rules
Rule 4.211 - Augmentative Communication Devices and Systems
Response to Comments Following First Public Comment Period

Introduction: The first public comment period on the proposed Health Care Administrative Rule 4.211 Augmentative Communication Devices and Systems was held from December 7, 2016 to January 16, 2017. A public hearing was held on January 9, 2017.

The Agency of Human Services reviewed and responded to comments received from the public and amended the rule. Due to the number of comments received and the nature of the amendments to the proposed rule, the Agency decided to hold a second public comment period and public hearing. The second public comment period will be held from February 21, 2017 to March 31, 2017. A public hearing will be held on March 24, 2017 from 1:00-2:00 PM at the Waterbury State Office Complex Room Cherry A.

The amended rule is posted on the Agency of Human Services Website, with this document at: <http://humanservices.vermont.gov/on-line-rules/>.

The annotated version of the rule shows amendments made following the first public comment period.

Comments can be sent to AHS.MedicaidPolicy@Vermont.gov or to: Medicaid Policy Unit / Agency of Human Services / 280 State Drive, Center Building / Waterbury, VT 05671.

Summary of Comments, Responses, and Proposed Changes:

- 1) **Medical Use:** The Agency received several comments that requiring “medical use” of peripheral equipment in 4.211.2(a)(4) was redundant because all Medicaid covered services must meet medical necessity criteria. Commenters requested that the term “medical use” be removed from 4.211.2(a)(4) and replaced with the term “effective”.

Response: The language in this rule was revised to remove the word “medical” and replace it with the term “as prescribed”. This clarifies that peripheral equipment is covered when required for use with the device or system as prescribed by the ordering speech language pathologist. All Medicaid covered services, including devices and equipment, must meet the criteria for medical necessity found at Medicaid Covered Services Rule 7103.

- 2) **Qualified Vendors:** Commenters expressed concern that requiring vendors to be Medicaid-enrolled providers would not be cost effective and would limit access to devices such as iPads, other types of tablets or “off the shelf” communication devices and systems.

Response: Suppliers of “off the shelf” devices, including iPads and tablets, can enroll with Medicaid as providers of durable medical equipment (DME). For example, Small Dog electronics is a Medicaid-enrolled vendor that supplies iPads. To become an authorized DME

provider, all vendors must sign an agreement with Vermont Medicaid. The State considers the most cost effective alternative when selecting vendors and authorizing coverage of a device or system.

- 3) Clinical Assessment/Cognitive Level:** Several commenters requested that the condition for coverage in 4.211.3(e) be revised to remove the language stating that an individual's cognitive level of functioning will be taken into consideration when matching the device to the beneficiary.

Response: The rule includes as a condition for coverage that augmentative devices and systems must be prescribed by a speech language pathologist based on a comprehensive evaluation. This comprehensive evaluation determines whether a device or system is appropriate to best meet a beneficiary's communication needs. An evaluation of an individual's cognitive level of functioning is one of several components of the comprehensive evaluation. The rule was amended to remove the redundancy of the consideration of a beneficiary's cognitive level of functioning when matching a device to a beneficiary because a cognitive assessment is included in the comprehensive evaluation. A copy of the clinical guidelines and prior authorization tool for augmentative communication devices and systems can be found on the Department of Vermont Health Access website here: <http://dvha.vermont.gov/providers/clinical-coverage-guidelines>

- 4) Independent Use:** Many commenters expressed concerns with the impact of language at 4.211.3(e), specifically "approved devices shall be used independently by the beneficiary". Commenters stated that the language appears to exclude coverage of augmentative communication devices for individuals who use facilitated communication. Commenters also stated that the proposed language appears to deny coverage to individuals who require other types of assistance, such as steadying a device or holding the device at a certain angle.

Response: The rule was amended to clarify that the purpose of a device or system is for communication that originates from the beneficiary, and not from a facilitator or other support person. All devices or systems must be used as determined by the prescribing speech language pathologist, and as medically appropriate for a beneficiary to compensate for a severe communication impairment.

Individuals requiring assistance are not prohibited from receiving a device or system to meet their communication needs. Physical and occupational therapists, or speech language pathologists can evaluate an individual to determine how a beneficiary may access the device via equipment mounts and other devices. Vermont Medicaid covers therapy services according to Vermont Medicaid's rules, policies and procedures.

- 5) Purchase and Replacement of a Device:** A commenter stated that requiring a beneficiary to demonstrate success using a device for medically necessary purposes prior to authorizing purchase of that device is redundant because all Medicaid covered services must be medically necessary. The commenter also stated that purchase of a device should be considered after a beneficiary has demonstrated the "potential" to achieve the communication goals, rather than the "ability".

Response: A trial period is required to assure that the device or system can meet the beneficiary's medical needs, and may be extended while a beneficiary receives training to use the device or system. Purchase of a device or system will not occur until a beneficiary demonstrates success using the device. The rule was revised to clarify that medically necessary purposes include, but are not limited to, activities of daily living.

- 6) **Repairs/Replacement:** A commenter expressed concern that requiring prior authorization for repairs more than \$500 may leave beneficiaries without a means of communication for longer than necessary and could have a significant impact on their physical and mental health. The commenter also requested that coverage of a replacement device be amended to include coverage when a device no longer operates.

Response: Repair of a device is covered under 4.211.2(b)(2). The rule was amended to clarify that rental devices are covered during the repair period. All repairs must be prior authorized. When the cost of a repair exceeds \$500, the prior authorization process determines if the repair is warranted or if a replacement device or system would better serve a beneficiary's medical needs. Prior authorizations are reviewed by the Department of Vermont Health Access within three days, and prior authorizations for repairs are prioritized.

A device that no longer operates does not effectively meet a beneficiary's medical needs and would be replaced by Vermont Medicaid.

No amendments to the rule were made in response to this comment.

7) **General Amendments and Clarifications:**

Additional amendments were made to clarify and ensure that the rule reflects the current practices and coverage of devices or systems for beneficiaries with a severe communication impairment. The amendments to this rule do not represent any change to current coverage or services authorized by Vermont Medicaid.